

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

SUDEEP KHETANI,

Plaintiff,

v.

PLAINSBORO TOWNSHIP, et al.,

Defendants.

Civil Action No. 23-666 (RK) (DEA)

MEMORANDUM ORDER

KIRSCH, District Judge

THIS MATTER comes before the Court upon Plaintiff Sudeep Khetani's ("Plaintiff") application to proceed *in forma pauperis*, together with Plaintiff's Complaint against Defendants Plainsboro Township, Plainsboro Police Department, Plainsboro Police Department Chief Guy Armour, and Plainsboro Police Department Officers Fred Tavener, Patrick Miller, Daniel LaRocca, Joseph Jankowski, William Atkinson, and Kenneth Beatty (collectively, "Defendants"). (ECF Nos. 4, 4-2).¹

Under 28 U.S.C. § 1915, a plaintiff may proceed *in forma pauperis*, which allows the plaintiff to bring a civil suit without paying a filing fee. When considering IFP applications, the Court undergoes a two-step process: "First, the Court determines whether the plaintiff is eligible to proceed under 28 U.S.C. § 1915(a). . . . Second, the Court determines whether the Complaint

¹ The Court construes the "Amended Complaint" received on February 13, 2023, (ECF No. 4), the week after the Court received the initial Complaint, (ECF No. 1), as Plaintiff's proposed pleading for purposes of the Court's IFP screening. While the propriety of filing an Amended Complaint before the Court screens the initial Complaint is questionable, the two pleadings appear identical apart from the addition of Plaintiff's two-page "Consent & Registration Form to Receive Documents Electronically." (ECF No. 4-4.) Therefore, the Court will review the more recent filing at ECF No. 4 for purposes of 28 U.S.C. § 1915.

should be dismissed as frivolous or for failure to state a claim upon which relief may be granted, as required by 28 U.S.C. § 1915(e).” *Archie v. Mercer Cnty. Courthouse*, No. 23-3553, 2023 WL 5207833, at *2 (D.N.J. Aug. 14, 2023) (citing *Roman v. Jeffes*, 904 F.2d 192, 194 n.1 (3d Cir. 1990)).

Leave to proceed *in forma pauperis* will be granted in this case as Plaintiff has adequately set forth his basis to proceed without paying the fees.² Following review of Plaintiff’s IFP application, the Court screens the Complaint to determine whether it is “frivolous.” *Archie*, 2023 WL 5207833, at *2. Upon review, the Court dismisses Plaintiff’s Complaint without prejudice. The Complaint in the case at bar is substantively identical to the lawsuit Plaintiff filed the week before this one in *Khetani v. Plainsboro Township, et al.*, Civil Case No. 23-534. “[R]epetitious litigation of virtually identical causes of action may be dismissed under § 1915 as frivolous or malicious.” *Donahue v. Dauphin Cnty.*, 852 F. App’x 630, 632 (3d Cir. 2021) (quoting *McWilliams v. Colorado*, 121 F.3d 573, 574 (10th Cir. 1997)). Here, the Complaint is inclusive of the Complaint in Plaintiff’s other action: the underlying facts arise out of the same events and Plaintiff names the same defendants. In fact, Plaintiff filed an identical exhibit in both suits, which details the facts giving rise to both matters. Plaintiff’s identical claims against these Defendants are proceeding in Civil Case No. 23-534. There is no reason for the parties to litigate identical suits.

Furthermore, the Court can identify no prejudice to Plaintiff in dismissing this matter. In Civil Case No. 23-534, the Court granted Plaintiff’s IFP application and instructed the Clerk of Court to file the Complaint. (Civil Case No. 23-534, ECF No. 7.) Shortly afterwards, Plaintiff

² As discussed below, Plaintiff filed an identical Complaint in another matter the week before this one, which is proceeding at Civil Case No. 23-534. Plaintiff submitted an IFP application in that case identical to the one here. The Court granted Plaintiff’s identical IFP application there, (Civil Case No. 23-534, ECF No. 7), and the matter is proceeding.

retained legal counsel and filed an Amended Complaint, naming an additional defendant and pleading new causes of action. (Civil Case No. 23-534, ECF No. 9.) Nonetheless, out of an abundance of caution, the Court will dismiss Plaintiff's suit without prejudice and permit Plaintiff to file an amended complaint within thirty (30) days that differentiates this matter from Civil Case No. 23-534.

IT IS on this 24th of October, 2023, **ORDERED** that:

1. Plaintiff's IFP Application, (ECF No. 4-2), is **GRANTED**;
2. Plaintiff's Complaint (ECF No. 4) is **DISMISSED** without prejudice;
3. The Clerk's Office is directed to **CLOSE** this case;
4. Plaintiff may have this case reopened within thirty (30) days of the date of entry of this Order by filing an amended complaint that complies with the instructions set out above; and
5. Upon receipt of an amended complaint within the time allotted by this Court, the Clerk will be directed to reopen this case.



ROBERT KIRSCH
UNITED STATES DISTRICT JUDGE